

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER DATE May 06, 2009MOTOR CARRIER MATTER DOCKET NO. 2008-360-SUTILITIES MATTER

ORDER NO. _____

SUBJECT:

DOCKET NO. 2008-360-S - Happy Rabbit, LP on Behalf of Windridge Townhomes, Complainant, v Alpine Utilities, Incorporated, Respondent - Discuss with the Commission the Complainant's Petition for Clarification/Alternative Relief and a Hearing Request Filed by Richard L. Whitt, Esquire.

COMMISSION ACTION:

In its petition for clarification, Happy Rabbit requests that the Commission Order in this matter declare that all discovery and pleadings filed by both parties is preserved for use "when the Docket is reactivated." I move that we deny this request. The Happy Rabbit/Carolyn L. Cook matters have been dismissed without prejudice – not held in abeyance. As recognized in our April 22 Directive, a case is currently pending in the circuit court, resolution of which could resolve the matters in dispute between the parties. It is far from a certainty that this case will need to come back to the Commission, and if it does, there is no way to know now what issues may be required to be addressed. Only if necessary, the Commission has said it would subsequently entertain any request for the filing of new pleadings regarding any unresolved issues for which it is claimed to have jurisdiction. If the parties determine that discovery that has been exchanged between the parties is relevant to any issues that may in the future arise before us, the Commission will entertain any motions the parties may have at that time regarding recognition and preservation of the discovery provided in this present case.

Further, Happy Rabbit requests that the Commission's Order would continue the protection for Complainants of R. 103-538 (B) while the parties are litigating in Circuit Court. I move that we deny this request. Representatives of Happy Rabbit are escrowing funds equal to its monthly sewer charges to Alpine, and have been escrowing such funds since the date of their Complaint in an account established for that purpose. They request that this Commission's Final Order formally require representatives of Happy Rabbit to maintain that account. Again, the Happy Rabbit/Carolyn L. Cook matters have been dismissed without prejudice, and a parallel case is currently pending in the circuit court. It is not in the interests of judicial economy for this Commission, in spite of its dismissal of the action, to "tie the hands" of the circuit court in regard to what it may decide to do with any escrowed funds or regarding any contractual obligations between the parties. In summary, I move that we deny both requests.

PRESIDING: FlemingSESSION: RegularTIME: 2:00 p.m.

	MOTION	YES	NO	OTHER
CLYBURN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WHITFIELD	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WRIGHT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(SEAL)



RECORDED BY: J. Schmieding